

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GARY AND SUSAN CARLSON,
Plaintiffs,

vs.

AMERICAN PACIFIC MORTGAGE
CORPORATION, a California corporation and
JOHN DOES I-IV,
Defendants.

Case No. _____

NOTICE OF REMOVAL

THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE THAT defendant American Pacific Mortgage Corporation (“Defendant”), by and through undersigned counsel, hereby submits this Notice of Removal of a Civil Action for the above-captioned action originally filed in the Superior Court of the State of Washington for the County of King, case number 14-2-10256-9 SEA to this Court pursuant to 28 U.S.C. §§ 1441 and 1446. This removal is based on the following grounds:

1. Complaint Filed on or about April 3, 2014. Plaintiff commenced this civil action on or about April 3, 2014 by filing a Complaint in the Superior Court of Washington for King County, captioned *Gary and Susan Carlson v. American Pacific Mortgage Corporation, et.al.*, Case No. 14-2-10256-9 SEA. Defendant filed a timely Answer to the Complaint.

2. First Amended Complaint Filed on or about July 16, 2014. Plaintiff requested, and was granted leave, to file a First Amended Complaint. Plaintiff filed the First Amended Complaint on July 16, 2014 which added a claim for relief under federal law. A true and correct copy of the First Amended Complaint is attached hereto as **Exhibit A**.

3. Defendant APMC filed an Answer to the initial Complaint, but is unaware of any other documents on file with the Superior Court of Washington in King County in this action.

4. Removal Timely. This Notice of Removal is timely filed within 30 days of service of the First Amended Complaint upon Defendant. *See* 28 U.S.C. § 1446(b)(3). Defendant has filed a notice of this Notice of Removal with the Superior Court of Washington in King County which is attached hereto as **Exhibit B**. No further proceedings have been had in the state court action, and the time within which Defendant may file a notice of removal has not expired pursuant to 28 U.S.C. §1446(b).

5. The action was pending in Superior Court of Washington in King County, which court is in the territory of the United States Western District of Washington at Seattle.

6. Jurisdiction of Federal Question. The Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1331, since Plaintiff's First Amended Complaint alleges Defendant violated federal law, 12 U.S.C. § 5567. *See* **Exhibit A**, Complaint, ¶ 13.

7. Defendant APMC reserves all defenses including but not limited to, any counterclaims, set offs, federal preemption, choice of law, improper venue, and those under Rule 12(b) of the Federal Rules of Civil Procedure and does not waive said defenses by the filing of this Notice of Removal.

WHEREFORE, Defendant APMC prays that plaintiff's state court action now pending in the Superior Court of Washington in King County, case 14-2-10256-9 SEA, be hereby removed to this court; that this court accept jurisdiction thereof; that said action be placed henceforth on the

1 docket of this court for further proceedings, the same as though original instituted in this court; and
2 for such other and further orders as may be just and proper.

3 DATED this 28th day of July, 2014.

4 LINDSAY HART, LLP

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6 *s/ Tyson L. Calvert*

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